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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.      | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------|------------------|
| 10/783,093  | 02/23/2004  | Mordecai Dunst       | 1954-393                 | 3524             |
| 6449  | 7590        | 02/13/2006           | EXAMINER                 |                  |
| ROTHWELL, FIGG, ERNST & MANBECK, P.C.<br>1425 K STREET, N.W.<br>SUITE 800<br>WASHINGTON, DC 20005 |             |                      | FLANAGAN, BEVERLY MEINDL |                  |
|   |             |                      | ART UNIT                 | PAPER NUMBER     |
|   |             |                      | 3739                     |                  |

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- ## Status

- ## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
4a) Of the above claim(s) 7-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**BEVERLY M. FLANAGAN**  
**PRIMARY EXAMINER**

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/15/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed June 15, 2004 has been made of record and the references cited therein have been considered by the examiner.

### ***Election/Restrictions***

Applicant's election of the invention of Group I (claims 1-6) in the reply filed on January 20, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 7-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

**An action on the merits to the elected invention follows hereinafter:**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook, Jr. (U.S. Patent No. 6,248,061).

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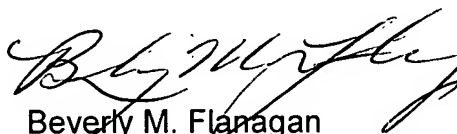
**In regard to claims 1, 3 and 6**, Cook, Jr. teach a laryngoscope blade 60 having a curved blade portion 62, a proximal end 66 and a distal end 64 and a base portion 74 to connect to a handle 26 (see Figure 6). Figures 6 and 7 show that the blade portion 62 has an upper surface and a lower surface and that the lower surface is secured to the base portion 74 at the proximal end 66. A suction tube 81 is secured to the upper surface of blade portion 62 and is constructed and arranged to direct suction extended therethrough into the oral cavity of a patient (see Figures 6 and 7). Cook, Jr. is silent as to a second suction tube. However, duplicating the components of a prior art device is a design consideration within the skill of the art. In re Harza, 274 F.2d 669, 124 USPQ 378 (CCPA 1960). Accordingly, it would have been an obvious matter of design choice to provide the blade 60 of Cook, Jr. with a second suction tube 81. **In regard to claim 2**, a second suction tube placed on the blade 60 of Cook, Jr. would necessarily extend in a different direction than the suction tube 81, especially if it was shorter than or longer than suction tube 81, and would be capable of directing suction into different regions of the patient's oral cavity. Furthermore, since the suction tubes follow the contour of the blade 60, which has both curved portion 62 and a straight portion (closer to the proximal end 66 of the blade 60), it follows that one tube could be designated as substantially straight and the other tube could be designated as curved. **In regard to claim 4**, Cook, Jr. teaches a light source 72 attached to blade 60 (see Figures 6 and 7). **In regard to claim 5**, blade 60 is provided with a side wall 68 and a fin 70 that extend in a direction transverse to the upper surface of blade 60 along a marginal edge segment (see Figures 6 and 7).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beverly M. Flanagan whose telephone number is (571) 272-4766. The examiner can normally be reached on Mondays, Tuesdays and Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Beverly M. Flanagan  
Primary Examiner  
Art Unit 3739

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